DEPARTMENT OF THE ARMY
HEADQUARTERS, U. S. ARMY MEDICAL DEPARTMENT CENTER AND SCHOOL
AND FORT SAM HOUSTON
FORT SAM HOUSTON, TEXAS 78234-5014

REPLY TO
ATTENTION OF

MCCS-BJA

1 9 JAN 2005

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: AMEDDC&S Release of Information Policy

1. References:

    a. The Privacy Act of 1974, 5 U.S.C. §552a.

    b. The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, 21 August 1996.

    c. Department of Defense Regulation 5400.11, DoD Privacy Program, 31 August 1983.

    d. Department of Defense Regulation 6025.18, DoD Health Information Privacy Regulation, 24 January 2003.

    e. Army Regulation 340-21, The Army Privacy Program, 5 July 1985.

2. Commanders often receive requests for information concerning Soldiers under their command. Such requests usually relate to the Soldier's medical or social welfare and are often submitted by a concerned relative. Regardless of how the request is made (i.e., telephone call, e-mail message, personal visit), commanders must ensure they do not release information that is covered by either the Privacy Act of 1974 (the Privacy Act) or the privacy provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) without written consent or authorization of the Soldier.

3. The Privacy Act. This act covers information maintained in a system of records that is retrievable by a personal identifier related to a specific individual (e.g., retrievable by the individual's name or social security number). Thus the Privacy Act protects the information contained in many of the files we routinely maintain on our Soldiers, such as personnel, training, and academic files. Such information cannot be released to third parties without the Soldier's written consent. Even though the request for information may be coming from a Soldier's mother, father, or spouse who is deeply concerned about a Soldier, Privacy Act-protected formation may not be released without the Soldier's written consent. It is up to the person requesting the information, and not the commander, to obtain the Soldier's consent. In cases where the Soldier consents in writing, consult the Staff Judge Advocate for a determination of whether the consent is
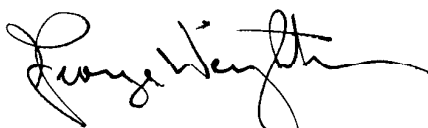
legally sufficient. In cases where there is no written consent from the Soldier, respond to requests for such information as indicated in paragraph 5, below.

4. HIPAA. The HIPAA Privacy Rule protects all "individually identifiable health information" held or transmitted by the Army, in any form or media, whether electronic, paper, or oral. Thus, the HIPAA Privacy Rule protects information a commander possesses concerning a Soldier's medical condition from release to a third party without the Soldier's written authorization. Again, even though the request for information may come from a person with a compelling interest in the Soldier's well being (such as the Soldier's mother, father, or spouse) commanders may not release individually identifiable health information without the Soldier's written authorization. It is up to the person requesting the information, and not the commander, to obtain the Soldier's written authorization. In cases where the Soldier has signed a written authorization, consult the Staff Judge Advocate for a determination of whether the authorization is legally sufficient. In cases where there is no written consent from the Soldier, respond to requests for such information as indicated in paragraph 5, below.

5. In cases where there is a request for information covered by the Privacy Act or by HIPAA but the request is not accompanied by the Soldier's written consent or authorization, commanders should compassionately explain to the requestor that the Army is doing everything we can to take care of the Soldier, but that he/she is prohibited by law from releasing specific information concerning the Soldier without obtaining the Soldier's written consent or authorization, as appropriate.

GEORGE W. WEIGHTMAN
Major General, MC
Commanding

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